

RECORDATION NO. 6103-B Filed & Recorded

JUN 25 1971 -11 42 AM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of June 1, 1971

between

GENERAL MOTORS CORPORATION

and

FIRST NATIONAL CITY BANK,
as Agent

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AGREEMENT AND ASSIGNMENT dated as of June 1, 1971, between GENERAL MOTORS CORPORATION (hereinafter called the "Manufacturer") and FIRST NATIONAL CITY BANK, with offices at 399 Park Avenue, New York, New York 10022, acting as Agent under a Finance Agreement dated as of June 1, 1971 (hereinafter called the "Finance Agreement"), said Bank, so acting, being hereinafter called the "Assignee".

WHEREAS the Manufacturer, BANKERS TRUST COMPANY, as trustee (hereinafter called the "Trustee") under an Interim Trust Agreement (as amended through the date hereof being hereinafter called the "Trust Agreement") and WEYERHAEUSER COMPANY (hereinafter called the "Guarantor") have entered into a Conditional Sale Agreement dated as of June 1, 1971 (hereinafter called the "Conditional Sale Agreement") covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Trustee of the railroad equipment described in Annex A to the Conditional Sale Agreement (each unit of said equipment being hereinafter called individually a "Unit" and collectively the "Units");

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this "Assignment") WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other

good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Manufacturer in and to each Unit;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement (except the right to construct and deliver the Units and the right to receive the payments specified in the third paragraph of Article 2 thereof, in subparagraph (a) of the third paragraph of Article 3 thereof, in the last paragraph of Article 14 thereof and reimbursement for taxes or other impositions paid or incurred by the Manufacturer), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Owner's Cost (as defined in the Conditional Sale Agreement) of the Units and interest thereon,

and in and to any other sums becoming due from the Trustee or the Guarantor under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all the Manufacturer's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against the Manufacturer for or on account of the failure of the Trustee or the Guarantor to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to deliver the Units in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained in Articles 12 and 13 of the Conditional Sale Agreement or relieve the Trustee or the Guarantor from their respective obligations to the Manufacturer contained or referred to in Articles 1, 2, 3, 7, 12, 13 and 26 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions

of Article 14 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Trustee with respect to the Units shall be and remain enforceable by the Trustee and its respective successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Trustee and the Guarantor with the terms and agreements on their parts to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Manufacturer covenants and agrees that it will construct and deliver the Units to the Trustee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement to be performed and complied with by the Manufacturer. The

Manufacturer further covenants and agrees with, and warrants to, the Assignee and the Trustee that at the time of delivery of each Unit to the Trustee under the Conditional Sale Agreement it will have legal title to such Unit and good and lawful right to sell such Unit, free of all claims, liens, security interests and other encumbrances of any nature by, through or under the Manufacturer except only the rights of the Trustee under the Conditional Sale Agreement and the rights of the Lessee under the Lease (as defined in the Conditional Sale Agreement), and that the obligation of the Trustee to pay the Owner's Cost of such Unit and interest thereon in accordance with the terms of the Conditional Sale Agreement will not be subject to any defense, setoff or counterclaim whatsoever; and the Manufacturer further covenants and agrees that it will defend the title to such Unit against the demands of all persons whomsoever based on claims by, through or under the Manufacturer originating prior to said delivery of such Unit by the Manufacturer to the Trustee; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Trustee thereunder. The Manufacturer will not deliver any of the Units to the Trustee under the Conditional Sale Agreement until the Conditional Sale Agree-

ment and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act.

The Manufacturer agrees that in any suit or proceeding brought by the Assignee to collect any instalment of the indebtedness in respect of the Owner's Cost of the Units, or interest thereon or any other payment due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will indemnify and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff or counterclaim whatsoever of the Trustee or the Guarantor arising out of the breach by the Manufacturer of any obligation with respect to the Units or the construction, delivery or warranty thereof, or under Articles 12 and 13 of the Conditional Sale Agreement, or by reason of any defense, setoff or counterclaim whatsoever arising by reason of any other liability at any time of the Manufacturer to the Trustee or the Guarantor. The Assignee will give notice to the Manufacturer of any suit or proceeding by the Assignee herein described, and will move or take other appropriate action, on the basis of Article 14 of the Conditional Sale Agreement, to strike any defense, setoff or counterclaim whatsoever asserted by the Trustee or the Guarantor therein, and if the court or other

body having jurisdiction in such suit or proceeding denies such motion or other action and accepts such defense, set-off or counterclaim as a triable issue in such suit or proceeding, the Assignee will notify the Manufacturer thereof and the Manufacturer will thereafter be given the right by the Assignee, at the Manufacturer's expense, to settle or defend such defense, setoff or counterclaim.

Except in cases of designs, processes and combinations specified by the Guarantor or the first lessee of the Units and not developed or purported to be developed by the Manufacturer, and articles and materials specified by the Guarantor or said first lessee of the Units and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Assignee from and against any and all liabilities, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any or all of the Units of any design, article or material which infringes or is claimed to infringe on any patent or other similar right.

The Manufacturer agrees that any amount payable to it by the Trustee or the Guarantor, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby

assigned to the Assignee, shall not be secured by any claim, lien, security interest or other encumbrance on any Units in respect of which the Assignee pays to the Manufacturer the amount to be paid under Section 5 hereof.

SECTION 3. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each Unit, at the time of delivery thereof to the Trustee, in letters not less than one inch in height, the following legend:

"LEASED TO TEXAS, OKLAHOMA & EASTERN
RAILROAD COMPANY BY BANKERS TRUST
COMPANY, AS OWNER-TRUSTEE, SUBJECT
TO A SECURITY INTEREST RECORDED WITH
THE I.C.C."

SECTION 4. Upon request of the Assignee, its successors and assigns, the Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Units.

SECTION 5. On each Settlement Date fixed as provided in Article 3 of the Conditional Sale Agreement with respect to the Units, the Assignee shall pay to the Manufacturer an amount equal to that portion of the Owner's

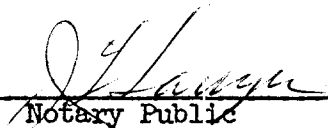
Cost (as defined in said Article 3) of the Unit or Units to be settled for on such date not required to be paid pursuant to subparagraph (a) of the second paragraph of said Article 3, provided that there shall have been delivered to the Assignee (with a signed counterpart to the Trustee) all of the documents specified in Sections 21 and 22 of the Finance Agreement in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to its special counsel, Messrs. Shearman & Sterling.

In the event that the Assignee shall not make any payment to be made by it as herein provided, the Assignee shall reassign to the Manufacturer, without recourse to the Assignee, all right, security title and interest of the Assignee in and to the Units (and all related rights, titles and interests in, to and under the Conditional Sale Agreement) with respect to which such payment has not been made by the Assignee.

SECTION 6. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Trustee or the Guarantor thereunder. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of

STATE OF ILLINOIS)
COUNTY OF COOK) ss:

On this 14th day of June, 1971, before me personally appeared B. B. Brownell, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

My commission expires October 28, 1971

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On this 24th day of June, 1971, before me
personally appeared *Richard L. [unclear]*, to me
personally known, who being by me duly sworn, says that
he is a Vice President of FIRST NATIONAL CITY BANK,
that the seal affixed to the foregoing instrument is the
seal of said bank, that said instrument was signed and
sealed on behalf of said bank by authority of its Board of
Directors, and he acknowledged that the execution of the
foregoing instrument was the free act and deed of said bank.

Margaret S. McCluskey

Notary Public

[Notarial Seal]

MARGARET S. MCCLUSKEY
Notary Public, State of New York
No. 43-2605850
Qualified in Richmond County
Certificate filed in New York County
Commission Expires March 30, 1973

My Commission expires _____.

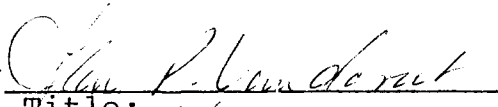
ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of June 1, 1971.

BANKERS TRUST COMPANY,
as Trustee

By 
Vice President

WEYERHAEUSER COMPANY

By 
Title: Asst. Manager - NW - Prod